
STATUTORY INSTRUMENTS

2021 No. 1028

**INSOLVENCY, ENGLAND AND WALES
COMPANIES**

**The Insolvency (England and Wales)
(No.2) (Amendment) Rules 2021**

<i>Made</i>	- - - -	<i>8th September 2021</i>
<i>Laid before Parliament</i>		<i>9th September 2021</i>
<i>Coming into force</i>	- -	<i>1st October 2021</i>

The Lord Chancellor has consulted the committee existing for the purposes of section 413 of the Insolvency Act 1986(1) (“the Act”).

The Lord Chancellor makes the following Rules in exercise of the power conferred by section 411 of the Act, with the concurrence of the Lord Chief Justice in relation to those rules which affect court procedure, and with concurrence of the Secretary of State.

PART 1

Introductory provision

Citation commencement and interpretation

1. These Rules may be cited as the Insolvency (England and Wales) (No.2) (Amendment) Rules 2021 and come into force on 1st October 2021.

2. In these rules the “Insolvency Rules” means the Insolvency (England and Wales) Rules 2016(2).

Extent

3. These Rules extend to England and Wales only.

(1) 1986 c.45.

(2) [S.I. 2016/1024](#); those Rules have been amended but the amendments are not relevant for the purposes of these Rules.

Saving provisions

- 4.—(1) This rule applies where before 1st October 2021—
- (a) a moratorium under Part A1 of the Insolvency Act 1986⁽³⁾ has come into force, or
 - (b) in the case of a moratorium for a company to which either section A4 or A5 of the Insolvency Act 1986 applies, an application has been made to the court.
- (2) Where this rule applies—
- (a) the amendments made by Parts 2 to 4 of these Rules do not apply, and
 - (b) Part 3 of Schedule 4 to the Corporate Insolvency and Governance Act 2020⁽⁴⁾ continues to have effect,

in relation to that moratorium.

5. Nothing in Parts 2 to 4 of these Rules affects the operation of the Insolvency Rules in relation to a moratorium under Schedule A1 to the Insolvency Act 1986 which has come into force before 1st October 2021.

PART 2

Insertion of Part 1A into the Insolvency Rules

New Part 1A of the Insolvency Rules

6. After Part 1 of the Insolvency Rules (scope, interpretation, time and rules about documents) insert—

“PART 1A

MORATORIUMS

CHAPTER 1

Preliminary

[Note: in accordance with rules 4 and 5 of the Insolvency (England and Wales) (No.2) (Amendment) Rules 2021 this Part applies only in relation to moratoriums under section A3 of the Act that come into force on or after 1st October 2021 and in relation to moratoriums under sections A4 and A5 of the Act where the application to the court is made on or after 1st October 2021.]

Application of Part 1A

1A.1. This Part applies for the purposes of a moratorium under Part A1 of the Act.

CHAPTER 2

Obtaining moratorium by filing notice at court

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

⁽³⁾ Part A1 was inserted by section 1 of the Corporate Insolvency and Governance Act 2020 (c.12).

⁽⁴⁾ 2020 c.12; Schedule 4 was amended by S.I. 2020/1031 and 2021/375.

Application of Chapter

1A.2. This Chapter applies for the purposes of obtaining a moratorium under section A3.

Obtaining a moratorium by filing documents at court (section A3): notice of filing

1A.3.—(1) The directors must (in addition to the relevant documents referred to in section A6) file a notice with the court (referred to as a “notice of filing”).

(2) The notice of filing must—

- (a) be accompanied by the relevant documents,
- (b) be headed “Moratorium under section A3 of the Insolvency Act 1986: notice of filing”,
- (c) state—
 - (i) that the directors wish to obtain a moratorium under section A3 of the Act,
 - (ii) the names of the persons filing the notice,
 - (iii) the identification details for the company,
 - (iv) the court (and where applicable the division or district registry of that court) or hearing centre in which the notice is filed,
 - (v) where the court has previously allocated a number to the insolvency proceedings within which the notice is filed, that number, and
 - (vi) the date on which the notice is filed, and
- (d) be authenticated by, or on behalf of, the person filing the notice.

(3) The notice of filing must be endorsed by the court with the date and time of filing.

The relevant documents: contents and requirements (section A6)

1A.4.—(1) Each relevant document must—

- (a) state the nature of the document,
- (b) identify the proceedings,
- (c) contain the identification details for the company, and
- (d) be authenticated by, or on behalf of, the person giving the notice or making the statement (as the case may be).

(2) The statements under section A6(1)(b) to (e) must—

- (a) be made within the period of five business days ending with the day on which the notice of filing is filed with the court, and
- (b) specify the date on which the statement is made.

The relevant documents: further requirements relating to the proposed monitor’s statement and consent to act (section A6(1)(b))

1A.5. A statement under section A6(1)(b) must—

- (a) be headed “Proposed monitor’s statement and consent to act”, and
- (b) contain—
 - (i) a certificate that the proposed monitor⁽⁵⁾ is qualified to act as an insolvency practitioner in relation to the company,

(5) “Monitor” in relation to a moratorium is defined in section A54.

- (ii) the name of the relevant recognised professional body which is the source of the proposed monitor’s authorisation,
- (iii) the proposed monitor’s IP number, and
- (iv) a statement that the proposed monitor consents to act as monitor in relation to the company.

Directions

1A.6. The court may at any time give such directions as it thinks just as to service of the notice of filing on any person.

CHAPTER 3

Obtaining a moratorium by application to the court

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Application of Chapter

1A.7. This Chapter applies for the purposes of an application to the court to obtain a moratorium—

- (a) for a company subject to a winding-up petition under section A4, or
- (b) for an overseas company under section A5.

Moratorium application (sections A4 and A5)

1A.8.—(1) An application for a moratorium under sections A4 or A5 must—

- (a) specify the date on which the application is filed, and
- (b) be accompanied by the relevant documents (as to which see section A6).

(2) The application must be endorsed by the court with the date and time of filing.

The relevant documents: contents and requirements (section A6)

1A.9.—(1) Each relevant document must—

- (a) state the nature of the document,
- (b) identify the proceedings,
- (c) contain the identification details for the company, and
- (d) be authenticated by, or on behalf of, the person giving the notice or making the statement (as the case may be).

(2) The statements under section A6(1)(b) to (e) must—

- (a) be made within the period of five business days ending with the day on which the application is filed with the court, and
- (b) specify the date on which the statement is made.

The relevant documents: further requirements relating to the monitor’s statement and consent to act (section A6(1)(b))

1A.10. A statement under section A6(1)(b) must—

- (a) be headed “Proposed monitor’s statement and consent to act for the purposes of a moratorium under Part A1 of the Insolvency Act 1986” and
- (b) contain—
 - (i) a certificate that the proposed monitor is qualified to act as an insolvency practitioner in relation to the company,
 - (ii) the name of the relevant recognised professional body which is the source of the proposed monitor’s authorisation,
 - (iii) the proposed monitor’s IP number, and
 - (iv) a statement that the proposed monitor consents to act as monitor in relation to the company.

CHAPTER 4

Obligations to notify where moratorium comes into force

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Notice given by court where moratorium comes into force:

1A.11. As soon as reasonably practicable after the coming into force of a moratorium the court must deliver to the directors a sealed copy of the document referred to in paragraph (a) or (b) (as the case may be) endorsed with the date and time of filing—

- (a) in the case of a moratorium under section A3, the notice of filing referred to in rule 1A.3, or
- (b) in the case of a moratorium under section A4 or A5, the application referred to in rule 1A.8.

Notice given by monitor where moratorium comes into force: standard contents and requirements

1A.12.—(1) Notification of the coming into force of a moratorium required by section A8(1) must be delivered—

- (a) to the persons specified in section A8(2), and
 - (b) where paragraph (2) applies, in accordance with that paragraph.
- (2) Paragraph (3) applies where—
- (a) notification is required to be given to any of the persons referred to in section A8(2)(b) to (d), or
 - (b) the moratorium is for a company which is a regulated company within the meaning given by section A49.
- (3) Where this paragraph applies—
- (a) rule 1.19(3) (copy of a document delivered to registrar of companies may be used to satisfy requirements for delivery to other persons) does not apply, and
 - (b) the monitor must deliver a copy of the document delivered to the registrar of companies to—
 - (i) the persons referred to in section A8(2)(b) to (d), for the purpose of giving the notification required by those paragraphs, and